

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TORRY DAVID GONZALES,)	
)	
Petitioner,)	Case No. 1:09-cv-228-SJM-SPB
)	
v.)	
)	
MAJOR SMITH, <i>et al.</i> ,)	
)	
Respondents.)	

MEMORANDUM ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on August 31, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [18], filed on October 8, 2010, recommends that the Defendants' motion for judgment on the pleadings [14] be granted. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at SCI Waynesburg, where he is currently incarcerated, and on the Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 2nd Day of November, 2010;

IT IS ORDERED that the Defendants' motion for judgment on the pleadings [14] be, and hereby is, GRANTED.

The Report and Recommendation of Magistrate Judge Baxter [18], dated October 8, 2010, is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter